

Alma Plastics Company and Oil, Chemical and Atomic Workers International Union, AFL-CIO, Petitioner. Case 25-RC-7860

November 24, 1982

DECISION ON REVIEW AND ORDER

**BY CHAIRMAN VAN DE WATER AND
MEMBERS JENKINS AND HUNTER**

On October 9, 1981, the Regional Director for Region 25 issued a Decision and Direction of Election in the above-entitled proceeding¹ in which he found appropriate the Petitioner's requested unit of approximately 47 employees employed at the Employer's Rotocast plant, in Edinburgh, Indiana, rejecting the Employer's contention that the unit must be broadened to include employees at its nearby Amos plant and related warehouse and assembly facilities. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's decision on the grounds, *inter alia*, that in reaching his unit determination he made erroneous findings of fact and departed from officially reported precedent. By telegraphic order dated November 5, 1981, the National Labor Relations Board granted the request for review.

Pursuant to the Board's Rules and Regulations, the election was held on November 6 in the unit found appropriate by the Regional Director and the ballots were impounded pending decision on review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case with respect to the issues under review and makes the following findings:

The Employer is engaged in the manufacture, sale, and distribution of plastic products and operates 10 plants in various States, including the 2 Edinburgh plants. There is no collective-bargaining history at the plants here involved.

The Amos plant facilities comprise a main production building (which houses the administrative offices), a warehouse building located across the street therefrom, and an assembly building located about eight blocks distant. A total of 472 employees work at these three facilities, 5 at the warehouse, 24 at the assembly building, and the rest at the main plant facility. The Rotocast plant employs 47 employees in a building located about 800 feet

from the Amos plant. Prior to January 1978, the Rotocast operation was considered a department of the Alma Plastics Company at the Amos plant and for purposes of job bidding the Rotocast plant is still treated as a department.

The two plants are engaged in the molding and finishing of plastic compounds, utilizing different processes. The Amos plant uses the injection molding process, and the Rotocast plant a rotational molding process. The two plants obtain some of their raw materials from the same intracorporate sources and make some sales to common customers. However, each also purchases raw materials and supplies independently. All sales are made through the Employer's sales department. While each plant is physically separate and headed by its own plant manager, who reports directly to a corporate vice president at the Employer's Alma, Michigan, headquarters, there is a common personnel policy for the two plants which is determined jointly, on a "consensus" basis, by a three-member committee consisting of the two plant managers and the personnel manager at the Amos plant. These personnel policies are set forth in an employee handbook, issued to and applied to the employees of both plants. No deviations from these policies are permitted and any changes in policy are the result of action taken by this three-member committee. Hiring for both plants is accomplished exclusively by the personnel manager at the Amos plant. The plant managers, subject to the Employer's internal grievance procedures, have independent authority to decide day-to-day personnel matters, including discipline, discharge, layoff, the granting of leaves of absence, and the scheduling of overtime and vacations. In case of layoff, the plant manager makes the decision as to the number and identity of the classifications to be eliminated but, because of the Employer's multiplant seniority policy, the identity of specific employees to be laid off is the function of the personnel department at the Amos plant.

In addition to centralized administration and common personnel policy, there is some functional integration of operations. For example, employees from the Amos plant perform carpentry work for the Rotocast plant; skilled Amos employees operate and perform maintenance work on complex Rotocast machinery; other Amos employees produce component parts and repair and alter molds and occasionally build prototype molds for the Rotocast plant. The Amos plant also performs the data processing, administers the affirmative action plans, and maintains records for retirement benefits and apprentice programs for both plants. Many of the job classifications at the two plants are the same or

¹ United Rubber, Cork, Linoleum and Plastic Workers of America is the Intervenor in this proceeding.

similar, with similarly classified employees receiving uniform wages, and all employees receive the same fringe benefits, according to seniority. Working conditions are generally the same and a common safety and apprentice program applies at both plants. Layoffs, bumping, and recalls are based on citywide seniority. In job bidding, employees in the affected department are given first priority in bidding in their own department or plant for a 24-hour period, after which period bidding rights are available to employees of both plants.

The record specifically sets forth 25 instances of employee transfers during the period from March 1, 1980, to March 31, 1981, 17 of which resulted from job bidding and 8 from layoffs, bumping, and recall situations. While the record does not indicate the number of temporary transfers, it is evident from the above-noted facts that Amos plant employees operate or perform maintenance work on complex Rotocast machinery, make repairs and alterations on Rotocast molds, and perform the carpentry work at the Rotocast plant, and that there are temporary interchange and frequent contact among employees at both plants.

Although the Rotocast facility is treated as a separate plant because it utilizes a distinct production process and has its own plant manager, and while the Petitioner herein has requested a unit limited to the Rotocast employees, we conclude, contrary to the Regional Director, that the facts herein rebut the presumption that such requested single-plant unit is appropriate. First, as noted, the two plants are but 800 feet apart, both are engaged in the molding and finishing of plastic compounds—albeit by different processes, and both utilize production employees having similar skills. In addition, there is centralized personnel administration for both plants; the supply of certain repair, maintenance, and other services to the Rotocast plant by Amos plant employees; and applications of citywide seniority in the case of layoffs. Thus, notwithstanding the fact that the Rotocast plant manager implements the centralized labor relations policy on a day-to-day basis with respect to many matters and while the interchange of production employees appears to result primarily from the citywide layoff and recall system, we nonetheless view the Rotocast plant as a specialized production department of the Amos plant, and conclude that its employee complement does not enjoy a community of interest sufficiently distinct from the Amos plant production and maintenance employees to warrant our finding appropriate the petitioned-for unit.

Accordingly, and based on the above and the record as a whole, we find the requested unit of Rotocast employees to be inappropriate.² As the citywide production and maintenance employee complement is approximately 10 times larger than the petitioned-for unit and the Petitioner has not indicated a desire to proceed to an election in a broader unit, we shall dismiss the petition herein.

ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

MEMBER JENKINS, dissenting:

Section 9(b) of the Act directs the Board to “decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act,” the unit appropriate for collective bargaining shall be the employer unit, craft unit, plant unit, or a subdivision thereof. The majority takes a long step backward from the goal of assuring employees that freedom.

I had thought one of the basic principles of unit determination was that “the party seeking to overcome the presumptive appropriateness of a single-plant unit must be able to show that the day-to-day interests of the employees at the location sought have merged with those of the employees at the other locations.” *Penn Color, Inc.*, 249 NLRB 1117, 1119 (1980). This principle and its corollary that substantial authority vested in the manager of the sought single plant to handle the day-to-day supervision of the employees is “more significant in determining the appropriateness of the unit sought than centralized recordkeeping or product integration” (*Penn Color, Inc.*, *supra*) are totally obscured by the majority’s decision. Thus, the majority does not dispute the Regional Director’s finding that the plant manager of the sought Rotocast plant exercises final authority over virtually all decisions affecting the employees once they are hired. In lieu of the factors that would have been decisive until today, the majority relies on such factors as the

² See *The Kendall Company*, 184 NLRB 847 (1970); *Kent Plastics Corp.*, 183 NLRB 612 (1970); and *The Kendall Company*, 181 NLRB 1130 (1970). See *Caron International, Inc.*, 222 NLRB 508 (1976).

Contrary to our dissenting colleague, the facts of the case herein show more than just centralized administration. Thus, as noted above, personnel policy is formulated by a triumvirate of the two plant managers—who carry out this same policy on a day-to-day basis—and the personnel manager—who is *exclusively* responsible for hiring employees at both plants. Finally, seniority for purposes of layoff and recall are Employer-wide, and employees laid off from one plant may be recalled to the other. We have not, therefore, reached conclusions without basis in fact, nor have we “ignored a long [line] of contrary precedent.” We have merely reviewed the facts herein and found, based on those facts, that the presumption favoring a single-plant unit has been rebutted.

similarity of products manufactured,³ centralized personnel administration, common seniority, and possession of similar skills by some employees at both plants. To the extent that such factors are made decisive, the presumptive appropriateness of a single-plant unit is rendered meaningless. The majority relies also on the relatively short distance between the plants. But relative distance can be only a secondary indication with respect to separate community of interest, and has no significance unless it reflects the primary factors, such as the degree of autonomy possessed by the plant manager. The other set of factors on which the majority purports to rely is the employee interplant transfers and the so-called "temporary interchange and frequent contact among employees at both plants." What all this amounts to, however, is that some employees have transferred permanently from one plant to the other at their own request and that certain skilled employees from the Amos plant perform their specialized work, such as carpentry and the operation, maintenance, and repair of complex

³ Similarity of the products manufactured has never been, in itself, a relevant factor in unit determinations. Products integration, a factor of secondary importance (*Penn Color, Inc., supra*; *The Black and Decker Manufacturing Company*, 147 NLRB 825, 828 (1964)), is not present here. Its absence is only one of the facts that distinguish this case from those cited by the majority.

machinery, at the Rotocast plant. This does not amount to significant interchange. The transfer of employees for their own convenience or benefit is not entitled to much weight. *Penn Color, Inc., supra*. The temporary assignment of skilled Amos plant employees to perform work at the Rotocast plant does nothing to affect the separate community of interest of the Rotocast plant employees, who spend all of their time in their own plant and have minimal contact with the vast majority of the Amos plant employees.

The majority relies, ultimately and by way of rationale, on its finding that the Rotocast plant is a "specialized production department of the Amos plant," this characterization expressly overriding all the factors favoring the separate appropriateness of the single-plant unit. However, the characterization is merely conclusory and is emblematic of the majority's willingness, ignoring a long history of contrary precedent, to make centralized administration the keystone to rebutting the presumption of separate appropriateness. Cf. *Haag Drug Company, Incorporated*, 169 NLRB 877, 878 (1968). Since that is the only factor of any importance that argues for a merger of the Rotocast plant employees' day-to-day interests, the Regional Director was correct in finding that the presumption has not been rebutted.